

**BRAULIO ALEJO ET AL., PLAINTIFFS AND APPELLANTS, VS.
PROVINCIAL GOVERNMENT OF CAVITE, DEFENDANT AND
APPELLANT.***G. R. No. 31711. January 25, 1930*

Ponente: STREET, J.

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This action was instituted by Braulio Alejo, with whom his wife was afterwards joined, in the Court of First Instance of the Province of Cavite, for the purpose of recovering from the Provincial Government of Cavite the sum of P36,000, the alleged value of 30,000 square meters of land which had been utilized by the province for a public highway. Upon hearing the cause the trial court gave judgment in favor of the plaintiff to recover of the defendant the sum of P5,895.40, with interest from the year 1913, without costs. His Honor also directed that the check to be issued in satisfaction of this judgment should be drawn in favor of the Bureau of Lands, in order that said bureau might collect the amount owing by the plaintiffs to said bureau upon account of the land in question. From this judgment both the plaintiffs and defendant appealed, but the appeal of the defendant was dismissed in this court for failure of the defendant to deposit the filing fee. [1] We are therefore here concerned only with the appeal of the plaintiffs.

The land with which this action is concerned consists of the road bed of the provincial highway between Naic and Indang, in the part running through the land of the plaintiffs in the sitio of Palangue, municipality of Naic. The land here taken for highway purposes by the province has a superficial area of 29,477 square meters; and it forms part of the so-called "friar lands," having been sold by the Director of Lands, as representative of the Government, to the plaintiff in April, 1910, for a price of approximately P110 per hectare. A year or two after this property was acquired by the plaintiff, the authorities of the Province of Cavite decided to straighten and improve the old Spanish road between Naic and Indang, and in 1913 this improvement was completed. The old road was crooked and in a deteriorated state, for which reason it was found desirable by the engineers in charge of the work to establish a new road bed along the general course followed by the old road, and this change was effected. The new road was undoubtedly built with the consent of the plaintiff, but he says there was an understanding that he should be compensated for the property. The parties, however, did not come to an agreement about the amount of compensation to be paid and, after nearly ten years of delay, this action to recover the value of the land appropriated for the road was begun.

In the course of the proceedings in the lower court, three commissioners were appointed, with the consent, if not at the request, of the plaintiff, to report upon the value of the property taken. Two of these commissioners made a return indicating that in their opinion the plaintiff was entitled to more than P40,000 while the third dissented on the ground that the amount recommended in the report of his two associates was exorbitant and that the plaintiff had not proved title to the land. When the case was tried in the Court of First Instance, the trial judge, after reviewing the evidence, allowed twenty centavos per square meter, or P2,000 per hectare. This amount was fixed partly in view of the fact that the provincial board of Cavite had, prior to the institution of the action, offered to

compensate the plaintiff at this rate.

The most material assignment of error of the plaintiff calls in question the propriety of the valuation fixed by the trial court, and it is insisted that the plaintiff should be compensated at least at the rate of P1.21 per square meter. Upon an examination of the proof we are of the opinion that the valuation fixed by the trial court was exceedingly liberal, and that the amount allowed is amply sufficient to compensate the plaintiff for the land taken. It is true that some of the land appropriated for the road had been reduced to cultivation; and, when the work was begun, some mature sugar cane was cut from parts of the roadway. But the land was uncultivated and covered by scrubby growth at the time the plaintiff acquired it, and the whole had not been reduced to cultivation. But even if it had been, two thousand pesos per hectare is undoubtedly a very liberal allowance for agricultural land in Cavite or elsewhere.

The contention that the appellant should be compensated for a triangular lot containing something more than one hectare which appears to have been cut off from the main body of the plaintiff's land by the highway, is not tenable, not only because damages for the appropriation of this land, or injury thereto, were not claimed in the complaint, but because it is apparent that the parcel referred to was not injured by the road.

We note that, in the course of these proceedings, the court ordered the defendant to deposit in court the sum of P6,000, in conformity with the requirement of section 2 of Act No. 2826, and this deposit appears to have been made. Upon this fact a doubt might be raised as to whether the plaintiff was entitled to interest from the time this deposit was made, but in view of the fact that the court allowed this interest and that the province did not prosecute its appeal with effect in this court, the question is academic.

Error is assigned to the action of the trial court in ordering that the check to be issued by the Provincial Government of Cavite in satisfaction of this claim should be made out in favor of the Bureau of Lands, in order that said bureau might deduct the proportionate part of the value of this strip of land from the amount of the check and pay the balance to the plaintiff. We know of no rule that would authorize a court to order the payment of a judgment to a person who is not a party to an action, and who has not intervened in the case for the purpose of asserting his rights. The money should be paid to the plaintiff in whose favor the award was made.

It being¹ understood, therefore, that so much of the judgment is eliminated as orders the check to be made payable to the Bureau of Lands, the judgment appealed from will be affirmed. So ordered, with costs against the appellants.

Johnson, Malcolm, Villamor, Ostrand, Johns and Villa-Real, JJ., concur.

[1] Decided by an order of June 18, 1929.

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